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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,205	02/09/2004	Alan D. Baldasari	006280.00003	6751
22907	7590	12/06/2005		
BANNER & WITCOFF 1001 G STREET N W SUITE 1100 WASHINGTON, DC 20001			EXAMINER EPPS, TODD MICHAEL	
			ART UNIT 3632	PAPER NUMBER

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/773,205	BALDASARI, ALAN D.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Todd M. Epps	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1,5-15,18,19,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 2-4, and 16-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

This is the second Office Action **final** for serial number 10/773,205, Break-away Basketball Goal System, filed on February 9, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

Claims 1, 5, 6, 10, 12, 15, 18, 19, and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 4,465,277 to Dittrich.

Dittrich '277 teaches a base (2'), a neck (34, and 35) movably coupled to the base (2') extending a horizontal distance from the base, a backboard (36) attached to a distal end of the neck (34, and 35), and a shock-absorbing mechanism (56) for absorbing substantially downward shocks to the neck by permitting movement of the neck (34, and 35) from an original position and returning the neck (24) to the original position, the shock-absorbing mechanism providing the sole upward force at the distal end of the neck for maintaining the neck in the original position (fig. 5-7); a mounting post (32) extending between the base (2') and the neck (34, and 35), the mounting post (32) having a forward side oriented toward the backboard and an opposite rearward side, wherein the neck (34, and 35) is movably attached to the mounting post (32) and the shock-absorbing mechanism (46) is attached to the rearward side; wherein the neck (34, and 35) is pivotally attached to the mounting post (32); wherein the base (2')

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adapted to be permanently affixed to a horizontal playing surface (fig. 5-6); wherein basketball goal system is portable and the base is moveable with respect to the ground (fig. 5-6); wherein the backboard (36) rotatably attached to the neck (34, and 35) to provide adjustment for irregularities in the plumb of a support to which the base (2') is attached; a rim (4) coupled to the backboard (36), the rim (4) being pivotable with the backboard (36) about an axis for orienting the rim in a substantially horizontal position; and wherein the shock-absorbing mechanism maintains the neck in the original position without a lock mechanism supporting the neck in the original position.

***Claim Rejections - 35 USC § 103***

Claims 7, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dittrich '277.

Dittrich '277 fails to disclose the backboard disposed a horizontal distance of 4 feet to 12 feet, 5 feet to 7 feet, and 9 feet to 11 feet from the base. It would have been obvious to one ordinary skill in the art at the time the invention was made to have 4 feet to 12 feet, or 5 feet to 7 feet, or 9 feet to 11 feet from the base to the backboard, wherein doing so would provide thereof convenience to adjust the backboard to suit their playing height.

Claims 11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dittrich '277 in view of U.S. Patent number 5,098,093 to Dupre.

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Dittrich '277 fails to disclose the base adapted to be fixedly attached to a roof.

Attention is directed to the Dupre reference, which teaches the base adapted to be fixedly attached to a roof. Accordingly, it would have been obvious to one ordinary skill in the art at the time the invention was made to have a basketball goal system of Dittrich '277 with roof mounting frame by Dupre '093 wherein doing so would provide thereof ease to jump and play ball without hitting a pole.

Regarding claim 13, Dittrich '277 fails to disclose the base adapted to be generally affixed to a wall. Attention is directed to the Dupre reference, which teaches the base adapted to be generally affixed to a wall. Accordingly, it would have been obvious to one ordinary skill in the art at the time the invention was made to have a basketball goal system of Dittrich '277 with a wall by Dupre '093 wherein doing so would provide thereof ease to mount on it.

Regarding claim 14, Dittrich '277 fails to disclose the base adapted to be removably attached to a vertical support. Attention is directed to the Dupre reference, which teaches the base adapted to be removably attached to a vertical support. Accordingly, it would have been obvious to one ordinary skill in the art at the time the invention was made to have a basketball goal system of Dittrich '277 with a vertical support by Dupre '093 wherein doing so would provide thereof ease to mount on it.

***Allowable Subject Matter***

Claims 2-4, and 16-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 20 is allowed.

Regarding claims 2-4, the prior art fails to teach the shock-absorbing mechanism, which includes a shock absorber coupled to the base, and a cable connecting the shock absorber to the neck; a housing retaining the shock- absorber, and a guide attached to the shock- absorber and connected to the cable.

Regarding claims 16, 17, and 20, the prior art fails to teach the shock-absorbing mechanism including a shock absorber coupled to the mounting post, a cable connecting the shock absorber to the neck, a housing retaining the shock-absorber, and a guide attached to the shock absorber and connected to the cable.

***Response to Arguments***

Applicant's arguments with respect to claims 1, and 15 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd M. Epps  
Patent Examiner  
Art Unit 3632  
November 28, 2005

Handwritten signature of Robert P. Olszewski, dated 12/1/05.

ROBERT P. OLSZEWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600